IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5281 OF 2005

Shri.Bipin J.Patni ..Applicant

Vs.

The State of Maharashtra
& Anr. ..Respondents

....
Smt.Sharmila Kaushik Adv. for Applicant
Mr.Y.M.Nakhwa A.P.P. for State
....

CORAM: SMT.V.K.TAHILRAMANI,J.

DATE : OCTOBER 19, 2006

P.C.

1. Heard the learned advocate for the applicant-original accused and learned A.P.P. for the State. None appears for respondent no.2-original complainant though served.

2. By order dated 19th July, 2005 the learned Magistrate convicted the applicant under Section 138 of Negotiable Instruments Act and sentenced him to simple imprisonment for three months and to pay a fine of Rs.4,00,000/- i/d simple imprisonment for

six months. Being aggrieved by the said judgment and order, the applicant filed Criminal Appeal No. 347 of 2005 before the Sessions Court. The said appeal came to be admitted. The applicant had also prayed for bail. By order dated 13th July, 2005, the learned Sessions Judge observed that as the entire fine amount was not deposited, prayer for bail could not be considered. The learned Sessions Judge has observed that as the entire fine amount was not deposited, the sentence could not be suspended. Being aggrieved by the said order, the present application has been preferred by the applicant.

3. Smt.Kaushik, the learned advocate for the applicant has submitted that the applicant has initially deposited an amount of Rs.1,55,000/- towards the fine amount before the trial Court. Thereafter, on 27th September, 2005, the applicant has deposited an amount of Rs.30,000/- before the trial Court. Thereafter, on 25th October, 2005 the applicant has deposited an amount of Rs.37,000/- before the trial Court. Thus, as of today, the applicant has deposited total amount of

Rs.2,22,000/- before the trial Court. Smt.Kaushik has prayed that the order of the learned Sessions Judge directing the applicant to deposit the entire fine amount, be set aside as the applicant has a very small business of supplying stationery and the applicant is unable to pay the huge amount. Smt.Kaushik further submitted that despite the applicant trying his best, the applicant is unable to raise any further amount. Hence, looking to the fact that applicant has deposited major amount of fine, the order of the learned Sessions Judge be set aside.

4. Looking to the facts of this case, the order dated 13th July, 2005 of the learned Sessions Judge is modified and it is directed that on the applicant depositing total amount of Rs.2,30,000/-, the applicant be released on bail and his appeal be heard on merits by the learned Sessions Judge. The applicant has already deposited an amount of Rs.2,22,000/- before the trial Court. Hence, the applicant has to deposit an additional amount of Rs.8,000/- before the trial Court on or before 15th November, 2006.

5. The applicant to be released on bail in the sum of Rs.20,000/- (Rs. twenty thousand only) with one or two sureties to make up that amount. The cash bail of Rs.30,000/- furnished by the applicant, be returned to him after the applicant furnishes the necessary surety/sureties. On the applicant depositing the remaining amount of Rs.8,000/- by 15th November, 2006, the learned Sessions Judge shall decide the appeal preferred by the applicant on merits. It is made clear that if the applicant does not deposit the amount of Rs.8,000/- by 15th November, 2006, the bail granted to the applicant shall stand automatically cancelled.

6. Application is accordingly disposed of.

[SMT.V.K.TAHILRAMANI,J.]